

MEMORANDUM

TO: Regions and Water Allocations Bureau
FROM: Norman C. Young *NCY* ADMINISTRATIVE MEMORANDUM
DATE: November 16, 1992 APPLICATION PROCESSING #55
RE: Consideration of Water Right Applications for Fish Propagation

The courts have held that the Department cannot approve an application which will violate Idaho water quality standards. The courts' determination was specifically related to fish propagation proposals in the Middle Snake area. Consideration of applications for permit to appropriate water for fish propagation must be coordinated with the Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ) to determine whether the use of water proposed by the application will be consistent with the local public interest.

DEQ has been developing industry discharge standards for river segments throughout the state, particularly in the Middle Snake River. During the development of industry standards, DEQ will not certify any project which will result in a net increase in nutrient discharge to the river. As a result, the Department of Water Resources has approved only one application for fish propagation which DEQ stated could satisfy the no-net-increase standard. After receiving information from DEQ regarding the likely future DEQ standards, it appeared that the no-net-increase standard is likely to remain in place following the adoption of industry standards. However, the final decision on this standard will be made in early 1993.

The Department is sending a letter to all applicants informing them that processing will be resumed upon submittal of plans and specifications to the Department, including a certificate by DEQ, that the project will not increase nutrients in the receiving stream in accordance with the standards to be adopted.

We will continue to withhold action on pending applications for fish propagation until DEQ certification is provided that the project can be built and operated in conformance to the established standards. I regret the continuing delay in being able to issue a decision on the applications, some of which have been pending a long time.

NCY:GS:js